Supreme Court, U.S.
FILED

No. 05-414 JUL 25 2005

OFFICE OF THE CLERK

In The

Supreme Court Of The United States

ROBERT WILLIAM MOSIMANN

Petitioner

v.

MSAS CARGO INTERNATIONAL and
BETH SCHELLENBERG

Respondents

**On Petition For A Writ Of Certiorari To
Michigan Supreme Court**

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED FOR REVIEW

1. Are there mitigating circumstances which might justify the late submission of court materials and the acceptance of such materials by the U.S. courts?

2. In cases where the U.S. government or system of justice itself or its representatives have obstructed due process whether by: negligence, error, providing false information or other lapses; might these situations be considered such mitigating circumstances?

3. In cases where: a gross miscarriage of justice has occurred, or where the U.S. system of justice has itself dishonored commitment(s) or issued unilateral and illegal dictates, or displayed gross and endemic negligence, or where the defendants or defense have engaged in criminal conducts and such circumstances have materially affected the outcome of a case; should such a case be reopened and any settlement agreements be set aside or voided?

4. In cases where, without any notice or proper warning a judge takes an entire proceeding off the record, even though at least one (1) of the parties included was unaware of this and was reliant on commitments made

during this proceeding; if further, considerations were explicitly pledged towards settlement during that proceeding; should the judge be ordered to place such a proceeding back on the record and should a case materially affected by such a situation be reopened and any settlement which ostensibly might have occurred be voided?

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ADDRESSING -

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LIST OF PARTIES

The names of all parties appear in the caption of the case on the cover page.

PREFACE

The Michigan Supreme Court neglected to properly mail the notice of their decision denying my application for leave to appeal.

The Michigan Supreme Court mailed their notice without a full address including postal code; perhaps Canadian alphanumeric codes do not fall within the programming parameters for mailings.

Further, the Michigan Supreme Court neglected to use adequate postage.

As a result of this negligence, this petition to the U.S. Supreme Court is being made without due time for preparation. A list of supplementary materials will follow the enclosed materials as soon as possible to complete the initial presentation for this petition.

STATEMENT OF THE CASE

I, the plaintiff, had a contract to store inventory with the defendants and to have the defendants ship by UPS orders prepared by myself.

Without notice the defendants moved the inventory and interrupted the revenues of my company.

A number of major irregularities occurred in the case, e.g. the judge illegally interrupted my control of my own case. By the time I regained direction of my case, discoveries were no longer available to me. Further, the judge appointed a mediator not only known to the defense attorney but hand-picked by him; this mediator thereupon released confidential information to the defense.

Beyond such incidents the case culminated in two (2) announcements.

Announcement 1 pledged that the inventory would be returned complete and intact and inspected as such by the defense attorney. These considerations were explicitly pledged toward settlement.

Announcement 2 took the case off the roster of going to trial and outlined considerations of settlement of $15,000. U.S. to be paid to myself and noted that a vehicle with contents was lost.

The judge, through imprecism of language and logically invalid reasoning, subsequently issued an illegal dictate and

determination that Announcement 2 constituted all of the terms of the settlement and not only voided the primary considerations of the warranties expressed in Announcement 1, she took the entire proceeding off the record without my knowledge or consent.

The judge, through misconception, simply assumed that the 1.5 million dollar inventory had been inspected and returned. The judge displayed inadvertence in ignoring an explicit statement by myself which clearly indicated that the inventory had not yet been inspected.

The illegal dictate of the judge imposing a non-existent completeness occurred not only when there was no explicit statement which either indicated or implied that the terms and considerations of Announcement 2 were the sole terms and considerations of settlement; but also despite an explicit statement which implied the contrary.

During Announcement 2 when the inventory was brought up the judge not only interrupted my freedom of speech but also made an unequivocal pledge to subsequently bring up this matter. Since the inventory was not brought up again in Announcement 2, it is completely untenable dictating that this announcement was a complete delineation of settlement when the judge had pledged to bring up the primary consideration subsequently. The judge, apparently due to mental incapacity, subsequently simply dishonored this pledge, not even

remembering her own commitment and ruled that Announcement 2 was itself a complete settlement.

After the inventory had been inspected by myself and there was overwhelming evidence that not only the defendants but also the defending lawyer and firm had committed criminal conduct, including fraud, the court simply dismissed a properly filed motion by myself to have the defendants and defense lawyer found in contempt of court due to fraud in not returning the inventory complete nor intact nor even possibly inspected as such.

Further, the court neglected even to properly file its paperwork either with regard to its unilateral dictate of completeness nor with regard to dismissing this motion, neither occurs in the court docket of the case.

The errors of U.S. justice did not end there, however.

After I signed a settlement agreement under both verbal and written protest, I repeatedly inquired about means of appeal.

U.S. government court staff repeatedly provided false information that subsequent to 30 days from the case no appeal was possible. There were at least five (5) such occasions of which at least two (2) occurred in the presence of the court recorder herself as witness.

When I eventually found that the U.S. government had here provided false information, I immediately appealed to the Court of Appeals. They replied that it was not within their purview to consider this case due to the then delay beyond one

(1) year. The delay from U.S. government false information had prevented timely appeal but this mitigating circumstance was beyond the Court of Appeal's ability to take into account.

When the Court of Appeal itself, however, made major errors in mailing, which it acknowledged where these prevented appeal to higher courts, it was able by contrast to remedy these errors and allow such appeal.

The Court of Appeal not only mailed their dated notice 1½ weeks late after starting a 42-day countdown to appeal to the Michigan Supreme Court; they mailed it with both illegible and inadequate postage.

Inconsistently, they were able to allow higher appeal by redressing their own errors in obstructing due process but were themselves unable to redress or take into account such evident obstruction to due process from lower courts.

The Michigan Supreme Court thereupon simply dismissed the appeal as one they were not persuaded to allow.

The Michigan Supreme Court and its clerk's office were clearly aware of the acknowledged mailing errors of the Court of Appeal, however despite this, the Michigan Supreme Court itself mailed their notice both with an incomplete address as well as with inadequate postage.

This initial presentation to the U.S. Supreme Court is thus being made with virtually no notice. Additional supplemental materials will be forthcoming.

At virtually every level the U.S. system of justice has failed in this case. There have been gross and endemic error which have literally not merely permitted but even fostered the criminal conducts of the defense.